

## **MANDATORY DEMATERIALISATION OF SECURITIES FOR UNLISTED PUBLIC COMPANY**

Ministry of Corporate Affairs has taken one step forward towards enhanced Corporate Governance vide its notification dated Sep 10, 2018 by mandating that all unlisted public companies shall get their Securities into de-materialized. This has been initiated to keep the records of the company's Securities electronically and more feasibility. Below are few attention seeker points from the notification which are highlighted below:

### **APPLICABILITY**

The above said notification is applicable to all the **securities** of an unlisted public Company.

### **OBLIGATIONS OF THE COMPANY**

- Going forward the company shall issue all the Securities in demat form only;
- It shall facilitate its existing shareholders for dematerialization of Securities;
- The Company shall mandatorily ensure that the Securities of all directors, promoters and KMPs have been dematerialized before making any issue or buy back of securities or issue of bonus Securities or right Securities;

### **CONDITIONS FOR TRANSFER/ SUBSCRIPTION OF SECURITIES OF UNLISTED PUBLIC COMPANY ON OR AFTER OCTOBER 02, 2018**

- If any security holder proposes to make any transfer on or after Oct 02, 2018 then it is their responsibility to get the securities in dematerialized mode before making such transfer.
- If a security holder subscribes for any securities of the Company on or after the Oct 02, 2018, then he shall make sure that all existing securities are in dematerialized form. This provisions makes dematerialization of Securities as a pre-condition for applying for the Company to get the offer subscribed.

### **OBLIGATION OF UNLISTED PUBLIC COMPANY AFTER DEMATERIALIZATION OF SECURITIES**

Rule 9A(5) enumerates few obligations on the part of the unlisted public companies after dematerialization of Securities which are as follows:

- It shall make timely payment of fees (admission as well as annual) to the depository and registrar to an issue and share transfer agent as per the agreement entered between the parties.

- It shall maintain security deposit of not less than two year's fees at all times, with the depository and registrar to an issue and share transfer agent
- It shall comply with all regulations or directions or guidelines or circulars issued by SEBI from time to time with respect to dematerialization of Securities of unlisted public companies such as:
  1. Depositories Act, 1996
  2. SEBI (Depositories and Participants) Regulations, 1996
  3. SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993

### **PENAL PROVISIONS**

The company who has defaulted in complying with the provisions of Rule 9A(5) shall not issue or buy back any securities or issue of bonus shares or right shares until the payment of depositories or registrar to an issue and share transfer agent are made.

### **COMPLIANCE STATUS OF RECONCILIATION OF SECURITIES AND CAPITAL AUDIT**

Under provision of Regulation 55A of the SEBI (Depositories and Participants) Regulations, 1996, read with Rule 9A(8), unlisted public companies are required to submit Reconciliation of Share Capital Audit Report on a half yearly basis to ROC under whose jurisdiction registered office of the Company is situated.

### **REPORTING OF GRIEVANCES OF SECURITY HOLDER**

The security holders of unlisted public companies can now report their grievances to IEPF authority and it shall take necessary action with prior consultation with SEBI.

### **CONCLUSION**

This notification will gear up the level of compliances for unlisted public companies to a certain level of listed companies and hopefully it will turn into a boon for both Company and the security holders.

### **NOTE**

Please note that a private company, which is the subsidiary of a public company, is considered as a public company. Hence, the provisions of the mandatory dematerialisation of securities shall be applicable on such private companies as well.